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China-U.S. Currency Conflict: The Economic and Legal Implications

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Abstract

This research paper underlines the root of this argument and how china's currency policy has affected both economics of U.S. and China. Many economists have emphasized on the appreciation of RMB as an important factor to attain the trade balance. However, this research argues that the appreciation is not going to matter. Pressure has been put on Obama's Administration to push China to appreciate its currency and to designate China as a "currency manipulator". Several Bills have been introduced to discuss this issue. From a legal perspective, two entities could tackle this issue. They are the World Trade Organization (WTO) and the International Monetary Fund (IMF). However, IMF lack legitimacy and leverage and WTO has no jurisdiction over the exchange rate. So, none of these entities could handle the currency issue. Therefore, this paper analyzes some possible solutions such as Omnibus Act, tariffs, import quotas and forming new legislation. Where, it concludes that the best solution could be via forming a new international agency.

Key words: China, United States, Currency, Conflict

JEL classification: Z18, K33

Introduction

For more than a decade, China has a policy of managing its currency exchange rate (RMB) to limit its appreciation against other currencies like U.S dollar. This policy has been subjected to many criticisms from United States' lawmakers as currency manipulation. The U.S. argues that China is gaining an advantage of export and attracting direct foreign investment at the expense of other countries including the United State. The claim also has included that China's manipulation causes U.S. trade deficit as well as

high rate of unemployment. Meanwhile, China's policy makers argue that its policy of exchange rate is a mechanism tool to enhance the development of the country and attaining market growth to make China rich and powerful.

Exchange rate is globally considered to be one of the most important economic issues. This price affects every country's imports and exports, as well as the value of every overseas investment. The issue with the exchange rate price exists when some countries practicing the manipulation of their currencies by using such policies to gain an unfair trade advantage against other countries.

In China's case, the country's central bank has adjusted the daily trading band for the Yuan (RMB), by allowing fluctuating 2% above or below a rate set by the People's Bank of China. This policy of intervention to limit the appreciation of Renminbi (RMB) against the dollar and other currencies has become a major source of tension. The major concern of the devaluation is its causing of large annual U.S. trade deficits with China and the substantial job losses in the United States. President Obama stated that China's undervalued currency puts U.S. firms at a "huge competitive disadvantage," and he pledged to make addressing China's currency policy a top priority. He also stated that China needed to "go ahead and move towards a market-based system for their currency" and that the United States and other countries felt that "enough is enough" (Morrison & Labonte, 2013).

This study is based on a practical analysis of the effects of undervaluing RMB on China's economy. The academic investigation of this research is approached using a methodological technique based on documents analysis from different sources. This research is using a scientific qualitative approach, which is concerned with opinions and feelings using documents and observation. The research methods are based on the findings from other researches from books, reports, academic journals, or the Internet.

This research paper will shed light on major important points concerning this currency conflict. Part I of this paper provides historical background of China's currency policy. Part II describes the root of the currency conflict between U.S and China. Then it moves to illustrate the effects of an undervalued RMB on China's economy as well as on the concern of US with regard the valuation and what actions have been taken against China. Another part of this paper deeply discusses the possible effect of the appreciation and views on the undervaluation practice. A legal perspective has also been taken into consideration and the possible role of the two entities WTO and IMF. This research ends with analysis of possible solutions for this conflict.

Background on China Currency Policy

Before 1994 China was applying dual exchange rate system, where two rates were used are government official fixed exchange rate system, and market based exchange rate system that was used by importers and exporters in 'swap markets'. The two exchange rates were very different as the official exchange rate with the dollar in 1993 was 5.77 yuan to the dollar versus 8.70 yuan in the swap markets. This system faced a lot of criticism from US because China was implementing very restricted policies on foreign imports. Then in 1994, China changed the system and started to peg the RMB to the dollar at about 8.28 yuan per dollar. This rate has been kept constant till 2005. The pegging system promoted stable economic environment in China and limit the risk of volatility in the exchange rate which could be caused by changing economic factors (China Center for International Economics Exchanges).

China faced pressure from the U.S and other trading partners that made it moves towards what is called a managed peg system. In July 21, 2005, the RMB's exchange rate was allowed to fluctuate based on market supply and demand. However, the percentage of daily fluctuation had been restricted to not more than (0.5%). This system applied until July 21, 2008 where the RMB appreciated reached 18.7% to the dollar. Aftermath the 2008 financial crisis and the global economic slowdown, China decided to intervene and prevent any farther appreciation in its currency. Therefore, it held a constant RMB/dollar exchange rate at 6.83 till mid-June 2010 (Whitesides, 2015).

Over the past few years, China's current account surplus has declined and its accumulation of foreign exchange reserves has slowed factors that have led some analysts to contend the RMB is not as undervalued against the dollar as it once was. On June 19, 2010, the People's Bank of China (PBC),

decided to give more flexibility to the RMB exchange rate. It allowed it to appreciate and going up and down while keeping eyes on the fluctuation to intervene at any time of sharp and massive fluctuations. For example, "the exchange rate went from 6.83 on June 19, 2010 to 6.17 on July 10, 2013 with an appreciation of 10.7%. Today, the appreciation rate reached 30% since 2010" (Klein, 2015: 4).

The Root of China's Currency Conflict

The root of the dispute between the United State and China exists because China undervalued its currency, RMB, against the U.S. Dollar, which help to boost its exports and trade surplus at the expense of U.S. and other trading partners. This practice of undervaluation causes a huge tension from the U.S. side. Pressure from the U.S., International Monetary Fund, the World Bank, and many other economical parties has been put on China to allow the RMB to appreciate at a faster pace and in line with the market forces. China's response was to allow partial appreciation of RMB by only 25% and that did not meet the U.S. expectations (McDonald, 2015).

The initiation of this conflict comes as the U.S. and China have fundamentally divergent ideas on the function of exchange rates. The U.S., IMF and other parties define exchange rate as a price. They view the practice of China as a way to intervene in the international market operations at the functioning level. They also argue that undervaluing the RMB has more harm for the Chinese economy than it can benefit it. The price distortion makes China more dependent on the export and outside financial investment while discouraging the domestic investment. Therefore, China should allow its currency to flow free under the market force and without any intervention (Sanford, 2011).

Chinese policy makers have a different view about currency and exchange rate. They see exchange rate and prices as a tools used for developing the country and attaining market growth with overall objective to make China rich and powerful. China believes the economic growth could be attained via extensive reliance on export as they see countries in the past were raised from poverty to wealth through export-led development. For seeking their objective they manage their exchange rate in a way that enhances export. Also, they defend their argument by highlighting that U.S. pursued this strategy in the 19th century after the World War II, and other countries such as Japan, South Korea and Germany adopted similar policies to boost their economies. For that, they resist any international pressure to change its exchange-rate policy (Morrison & Labonte, 2013).

China's currency policy resulted in persistent trade surplus which has increased since 2004 by three trillion dollars. This reserve has been invested in U.S. treasury debt. Too much concern in US that China is acting as a banker for the United State which at any time could lead to US dollar collapse by dumping its dollar holdings. Some economists believe that China is moving towards building high international reserve of RMB to rival or supplement the U.S. dollar (McDonald, 2015).

The Effects of Undervaluing RMB on China's Economy

The devaluation of RMB helps the growth of Chinese economy and stimulates exports by boosting overseas sales. This in turn helps to boost domestic demands and leads to job creation in the export sector. Moreover, Chinese currency (RMB) becomes more globally well known, helping promote the country's diplomatic goals and solidifying the country's centrality to the global economy. This is also eliminates exchange rate risk through a managed peg which increases the attractiveness of China as a destination for foreign investment in export. Chinese officials argue that currency stability leads to economic stability (Mercer LLC, 2015). However, there are a number of negative aspects associated with this policy:

1. Overdependence on exporting, as some analysts estimates that fixed investment related to tradable goods plus net exports together accounted for over 60% of China's GDP growth. This is significantly higher than the "G-7 countries (16%), the euro area (30%) and the rest of Asia (35%)" (Morrison, 2015:30).
2. Making imports from outside more expensive and that hurt the trade activities which are dependent on import of some parts for its operation or raw materials.

3. Benefits foreign multinational corporations at expense of local companies which are not exporting. This in turn facilitates the trade of these companies and help to transfer the money outside China instead of directing it to other sectors that in the domestic market such as service sector.
4. Undervaluing currency is also considered as a subsidy for American citizens as they can get Chinese exported products at lower prices that they can get when free market exists. On the other hand Chinese citizens pay more for imported products because of the expensive imposed tariff for tradable goods as well as domestic competition is restricted. This means that purchasing power of Chinese businesses and households of overseas goods will deteriorate.
5. Chinese currency policy makes it difficult to control inflation in China. Under the pegged system, China cannot raise interest rate to control the inflating because this will shift fund from outside investor to China and made the currency high.
6. Luxury brands, premium European car manufacturers (like BMW or Daimler Chrysler), metals & mining companies that sell raw materials to China like BHP or Vale), Chinese airlines (which have most of their debt in USD) and consumer product makers with China as main overseas market (like Apple or Swatch Group) all will suffer as purchasing power of Chinese households deteriorates.

Concerns in the United States over China's Currency Policy

Many Analysts, policymakers and labor representatives in the U.S. have criticized the manipulation of China's currency that has resulted in making Chinese exports to the United States less expensive, while U.S. exports to China more expensive, than they would be if exchange rates were determined by market forces. The RMB undervaluation can be viewed as an indirect export subsidy which artificially lowers the prices of Chinese products imported to the United States. This could affect negatively U.S. competing firms and their workers. What is more, concern has been drawn with regard the reduction in the level of U.S. export to China and this level could be higher under a floating exchange rate system. Thus, the US trade deficit could be attributed to the undervalued currency of China (Whitesides, 2015).

Other factor that has been cited as an evidence of Chinese currency manipulation has been China accumulating large levels of foreign exchange reserves, especially U.S. dollars, which it then uses to purchase U.S. debt. China is considering as the world's largest holder of foreign exchange reserves. Many analysts see that this huge reserve has been accumulated as a result of Chinese intervention in currency markets to hold down the value of the RMB.

High concerns are on the impact of China's currency policy on the U.S. employment. Labor representatives have criticized high rate of unemployment comes in correlation of US trade deficit and losing of jobs as many US companies moved from U.S. to China seeking low cost labor. For example, a study in 2012 by the Economic Policy Institute (EPI) indicates that the U.S. trade deficit led to the loss or displacement of 2.7 million jobs (of which, 77% were in manufacturing) between 2001 and 2012 (Scott & others, 2013).

Some commentators argue that China's exchange rate intervention represents a "beggar thy neighbor" policy (i.e., meant to promote Chinese economic development at the expense of other countries) (Whitesides, 2015).

United State Actions against China Currency Undervaluation

Different actions had been taken in the U.S. in order to tackle the negative effects of China's currency undervaluation. For Example, in 2004, several calls led by Mr. Charles Schumer, a Democratic senator from New York in searching for new congressional actions against China. Also, congress members for long time had argued to consider China as a 'currency manipulator' with the aim to pressure it appreciating its currency. Several bills were issued in U.S. in regard to this subject. In November 2011, a conference was held by President Barak Obama, where he underlined China's currency policy and called for China to change its policy and take a moving step to market – based system (Whitesides, 2015).

U.S. direct negotiation with China happened during the Obama Administration, as he tried to bring China to discuss the currency undervaluation through the Strategic & Economic Dialogue (S&ED) and the Joint

Commission on Commerce and Trade (JCCT). A good move happened at the July 2013 S&ED session, where China placed its commitment to move to a market-determined exchange rate. Also, the Obama Administration approached the Group of 20 (G-20) and the IMF for more international cooperation against China's manipulation (Klein, 2015).

On August 11, 2015, senior U.S. lawmakers stated that the announcement of China to undervalue its currency is considered as a serious issue which cannot be ignored and they condemn 'provocative' China currency devaluation. As Senator Lindsey Graham of South Carolina said, "Today's provocative act by the Chinese government to lower the value of the yuan is just the latest in a long history of cheating" (Howard, 2016).

The most recent action has been taken by the republican presidential candidate Donald Trump who promised to declare China as a currency manipulator on his first day in office in order to force Beijing to the negotiating table. Trump said: "We must stand up to China's blackmail and reject corporate America's manipulation of our politicians." He added: "The U.S. Treasury's designation of China as a currency manipulator will force China to the negotiating table and open the door to a fair—and far better—trading relationship" (Howard, 2016). By this declaration Trump is trying to draw the attention of US residents of a 30 years conflict.

Would Appreciation of the RMB Matter?

It is claimed that the appreciation of RMB would solve the U.S. domestic employment and trade deficit issues. However, the appreciation of RMB could result in even greater challenges to the U.S. by negatively impacting the interests of U.S. consumers and American companies in China and global economic recovery.

A study done by the Organization for Economic Cooperation and Development (OECD) indicated that the relationship between exchange rates and trade balances was not a simple cause and effect, and that the "the main driver of trade flows is found to be income—which is specified as domestic income. Increases in income in China, in particular, have implied large changes in trade with its partners." Between 2007 and 2011, the IMF estimated that a surge in domestic investment in China played as large a role as real appreciation of the RMB did in the reduction of China's current account surplus¹.

Moreover, OECD report shows that RMB appreciation would not fix the US deficit problems. As it indicated that the most optimistic model proposed only 13% decrease in American Deficit. According to Sino-U.S. trade statistics, US general trade accounted for 40%, while process trade accounted for 60%. For general trade, a vertical specialization exists between China and the U.S., as China's exports to the U.S. by general trade mainly concentrate on labor-intensive industries as China takes advantage of cheaper labor. If the U.S. does not cut the labor cost through constraining imports from China only, RMB appreciation will only going to shift the trade of US from China to other countries with low labor cost instead of eradicating the U.S. trade deficit (Sohlberg, 2011).

Another implication is that, RMB appreciation will go against the interests of American low- and middle-income consumers. As the price of imported goods from China has increased, the U.S. consumer expenses will increase. For instance, the U.S. imported \$41 billion of furniture and toy commodities from China. By assuming that RMB appreciates by 10%, American consumers' annual expenses will be increased by \$2 billion. This will definitely upset the American consumer especially under the condition of debt crises and unemployment pressure.

Moreover, a group of member of U.S. House of Representatives indicated that profits of multinational companies including American companies in China will decline as a result of appreciation of RMB. For Sino-U.S. process trade, multinational companies account for 56%. For example, the U.S. imported \$135 billion mechanical and electronic products from China and if RMB appreciates by 10%, these multinational companies' annual profits will be reduced by \$3.8 billion (Murphy, 2016).

¹ <http://www.oecd.org/about/>

In fact, the appreciation of RMB will not benefit the U.S. economy. In Fact, forcing fast RMB rise will be lose-lose situation. Historical experience has proven that, in the 1980's, the rapid appreciation of Japanese yen could not help to remedy the trade imbalance between Japan and the U.S. The U.S. trade deficit is a problem of its own system.

Discussion

Many analysts from all over the world have argued on how well the appreciation of RMB going to affect both China and United State Economy, some of their argument as following:

Wang and Zhou (2007)² argue that it has been a "standard practice" for several US administrations to pressure its trading partners to appreciate the value of their currencies to reduce the US trade deficit. In fact the trade competitiveness of US is determined by many factors and not primarily by exchange rates. Wang and Zhou believe that the import of cheap and good quality consumer goods benefits American consumers and eases inflation in the U.S. and is a necessary complement to U.S. industrial restructuring and economic development. The appreciation of RMB can only reduce US imports from China but it cannot significantly reduce the aggregate US trade deficit. They advocate that the Sino-US trade imbalance could be moderated if the US starts deregulating the control of technology export to China.

Roach (2015) claims that Washington demands to appreciate the RMB are based on "seriously flawed macroeconomic analysis." He argues that US is in a big deficit as it has a really big issue with its domestic saving. In order to protect its economic, the U.S. is in need to use a board surplus. Roach says "China turns out to be the biggest piece in this equation not because it is unfairly undercutting American-made products but because it offers a menu of products that satisfies the tastes and preferences of a chronically saving-short US economy." Roach believes that if U.S. kept pushing China to appreciate its RMB; this may lead to serious consequences by putting a huge burden on American consumers and corporations, since China is currently playing a major role in keeping U.S. interest rate relatively low via holding the major U.S. main assets.

Derek Scissors at the Heritage Foundation argues that US is not going to gain that much benefit as same to what is expecting from the appreciation of the RMB . The impact of the appreciation would only hold a very little effect on the U.S. employment as he stated it will create "a few thousand jobs at best." He also notes: "Guaranteed revenue and economies of scale make state firms modestly competitive as exporters when they would otherwise be uncompetitive" (Scissors, 2013: 28).

Michael Pettis with the Carnegie Endowment for International Peace has a similar point of view. He added that the government of China has "financial repression" policies where keeping the real returns to deposits low to seek maintain low lending rates and benefiting Chinese firms which is in fact a government owned. Pettis criticizes that this way come at the cost of Chinese household by transferring the income from them to the hand of producers and that in turn led to overinvestment and over capacity by firms which most of that exported. "As long as China continues to subsidize its production growth at the expense of household income, it will have difficulty increasing domestic demand and cutting its reliance on exports" (Pettis & Paal, 2010:18).

Legal Perspective

It seems that two international bodies can have the jurisdiction over China's currency manipulations, the International Monetary Fund (IMF) and the World Trade Organization (WTO):

IMF: IMF was charged with overseeing the international monetary system, which is "the system of exchange rates and international payments" that facilitates commerce between countries. The IMF "ensures exchange rate stability and encourages its member countries to eliminate exchange restrictions that hinder trade" (Scott, 2010). IMF has three main principles regarding the policies members should follow:

² Wang Lijun is associate professor at Capital University of Economics and Business and Zhou Shijian is an executive councilor at China Association of American Studies

A member shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.

A member should intervene in the exchange market if necessary to counter disorderly conditions which may be characterized inter alia by disruptive short-term movements in the exchange value of its currency.

Members should take into account in their intervention policies the interests of other members, including those of the countries in whose countries they intervene.

Article IV, Section 1 of the IMF's Articles of Agreement indicates that members will "avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members."³

In the IMF's Articles of Agreement, the purpose is described as follows:

(1) To promote international monetary cooperation through a permanent institution, this provides the machinery for consultation and collaboration on international monetary problems. (2) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy. (3) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.

This shows that the IMF was established to facilitate the free trade worldwide. However, it seems that IMF is either unable or unwilling to use any power to fight currency manipulation. So the current role of IMF is for covering the manipulation of currencies without any means of enforcement violations.

WTO: WTO differs from IMF as it has a functioning dispute resolution system where it gain more legitimacy and leverage over the IMF. Moreover, WTO has enforcement capabilities regardless of the argument of how much it is effective. However, WTO is lacking the jurisdiction over the exchange rate. Though the IMF recognizes currency manipulation as an unfair advantage, the IMF cannot currently undertake enforcement actions against manipulating countries. Conversely, WTO is an active sanctioning body, but currently does not recognize currency manipulation as grounds for recourse (Scott, 2010).

WTO can gain the jurisdiction over currency manipulation if it is considered that the practice of manipulation violate General Agreement on Tariffs and Trade (GATT). AS GATT is induced to reduce the international trade barriers and eliminate any kind of discrimination in the international commerce. Unfortunately, WTO remains silence in case of countries devaluing or overvaluing of their currency as these specific acts not covered by WTO jurisdiction (Sohlberg, 2011).

WTO can address the currency manipulation by considering the currency manipulation as unfair de facto trade subsidy. Both creativity and good advocacy are needed in this method in order to verify that Whether or not a subsidy is unfair. Then Article XVI (1) of the WTO's dispute resolution system can be applied in this case which state the following: "In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the contracting parties the possibility of limiting the subsidization⁴." However, this way is faced with difficulties of perusing the judge that the act of currency manipulation is falling under the unfair subsidies as no IMF or WTO explicitly state that.

IMF and WTO Cooperation

Cooperation between IMF and WTO could be a possible solution to resolve the issue of the enforcement and jurisdiction. "Countries could file a complaint with the WTO, after which the WTO would ask the IMF to decide on whether and to what degree currency manipulation was occurring. If the IMF found a violation,

³ IMF Articles of Agreement, article 4(1) (iii)

⁴ GATT, article XVI

then the WTO would authorize the complainant to impose countervailing tariffs against the offending country.⁵ However, this proposal seems ineffective as it requires many procedures of changing the WTO agreement and IMF articles which needs to get the approval of eighty-five percent of voting shares. Taking into consideration that, countries which are manipulating currency will hesitant to agree on this cooperation. Therefore, the IMF and WTO are unlikely to do such cooperation in order to address a practice in which the majority of their members engage (Sander, 2013).

Analyzing Possible Solutions

As the current international remedy not exists, one of the easiest and most effective ways to address the Chinese currency is a unilateral action by U.S. The United States could do that via approaching new legalization or best utilizing existing legislation. Politicians regularly call for unilateral action by the United States with no regard to the international community. A few of the possibilities for action are presented below:

Omnibus Act

United State could apply the Omnibus Foreign Trade and Competitive Act of 1988 to address the Chinese currency manipulation. According to Omnibus Act, two practices indicated that a country is manipulating its currencies which are: having a great level of material account surplus and the second practice is having significant bilateral trade surpluses with the United States. In case if this happens, then the Secretary of the Treasury has the right to hold a negotiation with that country for a purpose of trying to modify its exchange rate (Weisman, 2009).

It is understandable that a county which benefit from the manipulation practice, is unlikely to accept free negotiation about their currency. Therefore, this way is proving to be ineffective especially with no incentive to obey the agreement as lacking any enforcement mechanisms.

Tariffs

Another solution can be used in an attempt to force China appreciate its currency is the imposition of tariffs. Tariffs come in many varieties ways but all fall into a few major categories. The widest used type is charging tax on imports of any types of goods. This aims to add cost to the imported goods to help domestic market be more competitive and to reduce unemployment rate. However, this technique has negative impact by reducing standard of living domestically in the long term. Where citizens have been enjoying cheap goods for long time and tariffs would make these goods either expensive or unavailable.

Additionally, tariffs are generally seen as something to avoid. Recent WTO talks have included discussion of tariff reduction. "One result of the Uruguay Round was countries' commitments to cut tariffs and to 'bind' their customs duty rates to levels which are difficult to rise,⁶ as they create inefficiencies in the global market (Weisman, 2009).

In the case of U.S. and China, it seems that U.S. is relying too much on the imported goods from China and such imposed of tariffs would affect dangerously the U.S. domestic market. This could bring inflation rate up and makes U.S. citizens unhappy. Some kind of partial tariffs could be imposed on some imported goods to minimize the associated risk. Actually the United States has imposed such tariffs already as a response to devalued imported goods from China. For example President Obama in 2009 has announced 35% of tariffs on China. Many restrictions on imported goods had been introduced by the Commerce Department in U.S., however China did not react to all these restrictions as they had minor effects on its export. "This inaction is probably due to the fact that the United States buys roughly 4.5 times as many goods from China as China buys from the United States" (Howard, 2016).

⁵ Laurence Howard, 2016 "Chinese Currency Manipulation: Are There Any Solutions?" <http://law.emory.edu/eilr/content/volume-27/issue-2/comments/chinese-currency-manipulation.html#section-2fe00a4232e53b510050f5598f44ed41>

⁶ Tariffs World Trade Org., 2013

In response to that, the Chinese government issued a statement, stating that the U.S. decision is “not only violates WTO rules, but also runs against U.S. pledges at the G-20 summits, constitutes an abuse of trade remedy measures, and sets an extremely bad precedent in the current backdrop of a world economy in crisis.”⁷

It seems that even tariffs are a legal action in international law, but its harm weighted more than its good. In fact, “the cost to Americans from higher prices resulting from safeguard tariffs on Chinese tires was about \$1.1 billion in 2011” (Murphy, 2016). This in turn leads to the loss of purchasing power and indirectly causes reduction of jobs. Therefore, we could conclude that tariffs are not a suitable solution for addressing Chinese currency manipulation.

Import Quotas

United State could also use a strict import-quota on Chinese goods as an available solution to address the China currency manipulation. This is done as US only allow limited goods to enter the country. However, import quotas are prohibited by GATT. Article XIII of GATT provides that: “No prohibition or restriction shall be applied by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation of any product destined for the territory of any other contracting party, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.”⁸

For U.S. in order to act in align with WTO slandered, it should apply the import-quota to all countries that manipulates their currencies not only be applied with China. Moreover, using import-quota will lower that standard of living in U.S. as well as disrupting the relation between china and U.S. which may lead to a cold war. For that, it seems this solution is not suitable for solving the currency issue because of its drawbacks over the benefits.

New Legislation

Some political scientists in United State begun calling for issuing new regulation and policy to regulate the currency manipulation. For example, the Secretary of the Treasury, Utah Senator Orrin Hatch wrote a letter expressing his concern as: “Given the large and growing trade deficit with China, it is simply unacceptable for the Obama Administration to continually shirk its responsibility to articulate, in a timely manner, a clear and coherent policy regarding currency misalignment and manipulation” (Weisman, 2009).

In response to that, Currency Reform for Fair Trade Act (2013-2014) was founded. This bill proposed amendment to the Tariff Act of 1930 to “include ‘counter-available subsidy’ requiring action under a countervailing duty or antidumping duty preceding the benefit conferred on merchandise imported into the United States from foreign countries with fundamentally undervalued currency.”⁹

So this bill is going to allow undervalued currency to be viewed as a subsidy under U.S. trade law in a way of enabling to putting higher countervailing duties on imports. However, the bill is stuck in a committee in both the House and Senate with no sign of movement. Even if it gets through in Congress, it is likely will not be given enough attention to combat the overall issue as more complex issue will gain the attention.

International Coalition

The most appropriate way to solve this issue would be the creation of some kind of alliance including U.S. and other countries such as an international currency-monitoring agency (ICMA). The U.S. should not act alone to fight the currency manipulation as this consumes more time and effort that if it done through international coalition. This cost can be spread over the members of the alliance (Sohlberg, 2011).

ICMA is going to be more effective than imposing sanctions or tariffs. The United State can produce more favorable results without taking much active role and instead relying on the strength of the committee.

⁷ Imposition of Tariff on Chinese Tires, 2009, <http://voicesorchoices.com>

⁸ GATT, art. XIII

⁹ H.R.1276 - Currency Reform for Fair Trade Act 113th Congress, 2013-2014

Conclusion

Debate over China's currency policy has existed for a long time arguing on the RMB manipulation and its effects on China as well as U.S. economy. It seems that this debate not going to end anytime soon. The United State and international organizations can agree to label China as a 'manipulator'. China has to believe that by allowing their currency to appreciate, their economy will continue to grow and more benefits will be attracted as China is the only decider. So, consensus about this issue should be established, otherwise debate will abound.

Legal institutions that have been asked to monitor exchange rates such as IMF and WTO have failed to address it. They both are lacking any method for policing this currency manipulation. Looking at possible solutions, we believe that forming a new international agency would be the most suitable one combines the highest effectiveness with the least risk. Here also we hope that the U.S. lawmakers who try to push China to appreciate RMB should review the history to see how the appreciation would help to reduce the U.S. deficit and create employment for them. They have to focus on stimulating their economy domestically.

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